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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,563	04/19/2001	Jean-Marie Gatto	CYBS5748	8750

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EXAMINER

JONES, SCOTT E

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/838,563

Applicant(s)

GATTO ET AL.

Examiner

Scott E. Jones

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8 and 11-75 is/are pending in the application.
- 4a) Of the above claim(s) 59-75 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8 and 11-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07062004</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment and request for continued examination filed on May 18, 2004 in which applicant amends claims 1, 2, 7, 11-12, 15, 23, 31, 45, 49, and 52, cancels claims 6 and 9-10, and responds to the claim rejections. Claims 1-5, 7-8, and 11-75 are pending. Claims 59-75 have been withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7-8, and 11-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright (U.S. 3,645,531) in view of Labis (U.S. 3,729,193).

Wright discloses a gaming machine that provides a display of a horse race that is divided into four subframes randomly selected from endless film of horse races, wherein bets can be made and winnings paid out in accordance with the outcome of the race. Wright additionally discloses:

Regarding Claims 1, 15, 21, 23, 29, 31, 32, 34, 45, 50, 52, and 57:

- a display (29) (figure 1);
- a library of selectably accessible video sequences, the library including a plurality of activity sets, each activity set of the plurality of activity sets being associated with a different activity, each activity set including a plurality of sequentially

numbered subsets, each numbered subset including a plurality of like numbered video sequences drawn to the associated activity (column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6); multiple film/video sequences are randomly chosen to be displayed.

- a player interaction means (coin slots 31-34), the player interaction means being configured to enable selection of at least an activity, a predicted numbered outcome of the selected activity and a wager on the predicted number outcome of the selected activity (figure 1, column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6);
- a random number generator (83) (figure 10a);
- a processor, the processor being configured to access the library and to select an activity set associated with the activity selected by the player to select one of the sequentially numbered subsets according to a selected number generated by the random number generator and to access and show one of the plurality of like numbered video sequences of the selected subset on the display (figure 10a, column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6).

Regarding Claims 2, 16, 24, 33, 46, and 53:

- the player interaction means configured to pay a predetermined sum when the predicted numbered outcome matches an actual outcome of the selected activity shown in the accessed one of the plurality of like numbered video sequences of the selected subset (abstract, column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6).

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Regarding Claims 4 and 36:

- the library is stored locally relative to the processor (abstract, column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6) .

Regarding Claims 19 and 27:

- the associated activity (horse race) is a competitive activity in which a single numbered entrant is declared the winner (column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6).

Regarding Claims 7 and 38:

- the entrant includes at least one of a human, an animal, or a machine (column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6).

Regarding Claim 40:

- the associated selected activity includes a sport (horse racing) (column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6)).

Regarding Claim 41:

- the associated selected activity is a race (column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6).

Regarding Claim 11:

- the predetermined sum is determined according to the wager and predetermined odds (abstract, column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6).

Regarding Claims 12, 18, 26, 42, 48, and 55:

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- the library includes an introductory video sequence for each activity set and wherein the system is configured to show the introductory video sequence on the display immediately prior to the accessed one of plurality of like numbered video sequences (column 6, lines 8-20). A player can submit a wager on a horse that has not been selected up until the final sequence of four is shown. Therefore, the first three sets are shown prior to the last sequence.

Regarding Claims 13 and 43:

- the player interaction means is disabled when the introductory video sequence is shown on the display (column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6). A player's coin is rejected once a bet has already been placed on a horse or one of the four video sequences has begun.

Regarding Claims 14 and 44:

- the player interaction means includes a button (37) (start button) (figure 1).

Regarding Claims 17, 25, 47, and 54:

- the selected actual outcome is independent of the predicted outcome and of any action or knowledge of the player (abstract, column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6). The race is purely random, just like a true slot machine.

Regarding Claims 20, 28, 49, and 56:

- the race is selected from the group including a horse race, a dog race, a swimming race, a skiing race, a car race, a motorcycle race, a bicycle race, and a boat race (column 6, lines 41-45).

Regarding Claims 22, 30, 51, and 58:

- the wager is a singles bet (abstract, column 1, line 1-column 2, line 7, and column 2, line 24-column 7, line 6).

However, Wright seems to lack explicitly stating:

Regarding Claims 1, 15, 23, 31, 45, and 52:

- the predetermined number of video sequences for each race entrant being dependant on predetermined odds assigned to each race entrant; and
- to select one of the predetermined number of numbered video sequences of the race entrant selected as the winning entrant according to a number generated by the random number generator and to cause the selected numbered video sequence to be shown on the display.

Regarding Claims 3 and 35:

- the library is stored remotely from the player interaction means and wherein the library is accessed over a computer network.

Regarding Claims 5 and 37:

- the locally stored library is coupled to a computer network to enable remote updating of the library over the network.

Regarding Claims 8 and 39:

- the numbered entrant is a team.

However, to one having ordinary skill in the art at the time of Applicant's invention, using network and network server technology was notoriously well known. It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to implement

Wright's invention on a computer network. One would be motivated to do so to implement Wright's game in the state of the art technology.

Regarding Claims 8 and 39, it would have been obvious at the time of Applicant's invention to simulate a human 4 X 100 meter relay race in Wright. It would have been obvious to simulate a human 4 X 100 meter relay race in Wright because Wright discloses four separate film/video sequences are incorporated into the game. Hence, each one of the four video sequences could represent each of the four legs of the relay race.

Labis teaches an electronic racing game based on random selection, to electronically control horse races operated at preselected odds closely simulating actual horse racing (Abstract, Column 1, lines 4-34 and 62-65, Column 3, lines 10-15, and Claims 1 and 4). Labis and Wright are analogous art.

Regarding Claims 1, 15, 23, 31, 45, and 52, it would have been obvious at the time of applicant's invention to incorporate operating horse races at preselected odds to closely simulate actual horse racing of Labis in Wright. One would be motivated to do so because combining chance selection (of horses) with preselective odds for individual horses in a race is a salient feature of actual horse racing.

Response to Arguments

4. Applicant's arguments with respect to claims 1-58 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones
Examiner
Art Unit 3713

sej

A handwritten signature in black ink, appearing to read "Scott E. Jones", with a stylized flourish at the end.